

settlement, and waiver of claims in favor of the U.S. for property damage and for medical care claims.

(b) *Duties and Procedures.* In accordance with Chapter 14, AR 27-20, Commander, USARCS, has supervisory responsibility over the administrative processing of property and medical care claims by RJAs. The Commander, U.S. Army Health Services Command (HSC), has supervisory responsibility over the Third Party Collection Program (TPCP). The HSC TPCP Implementation Plan effects DOD Instruction 6010.15 and establishes procedures for processing TPC claims. Litigation Division, in conjunction with DOJ and U.S. Attorneys, is responsible for pursuing, through litigation, claims not resolved administratively. DOJ is ultimately responsible for initiating litigation for the United States. (28 U.S.C. 515).

(c) *Assertion of claims on behalf of the United States by private attorneys.* The Army incurs potentially recoverable expenses when it provides medical care to soldiers or dependents injured by tortfeasors (for example, a soldier is hospitalized after an automobile accident). When injured personnel employ a private attorney to sue the tortfeasor, it may be in the Government's best interests to enter into an agreement with the private attorney to include the Army's medical care claim.

(d) *Statute of limitations.* There is a three year statute of limitations for actions in favor of the U.S. for money damages founded upon tort. (28 U.S.C. 2415(b)). Limitations periods can vary, however, depending upon the theory of liability and the jurisdiction involved. RJAs must be alert to the applicable period of limitations. A case referred for litigation should arrive at Litigation Division at least 6 months before the expiration of the limitations period.

(e) *Reporting of recoveries.* Amounts recovered through litigation will be reported to USARCS by Tort Branch, Litigation Division, or, where referred directly to a U.S. Attorney or the Nationwide Central Intake Facility (NCIF), by the responsible RJA.

§516.34 Referral of medical care and property claims for litigation.

(a) *Criteria for referral.* The RJA will forward the claims file and a litigation report (See §516.35 of this part) through USARCS to Litigation Division when the claim has not been resolved administratively and any of the following conditions exist:

- (1) The claim exceeds \$5,000;
- (2) It involves collection from the injured party or his attorney;
- (3) The claim raises an important question of policy; or,
- (4) There is potential for a significant precedent.

(b) *Alternative methods.* When none of the conditions cited in the preceding subparagraph are present, the RJA may refer the claim directly to the U.S. Attorney for the district in which the prospective defendant resides. Similar property claims may be referred through USARCS to DOJ's Nationwide Central Intake Facility (NCIF) rather than directly to the U.S. Attorney. Notice of all such referrals shall be provided through USARCS to Tort Branch, Litigation Division. The RJA should be ready to provide support to the U.S. Attorney if requested.

(c) *Closing Files.* A file referred directly to the U.S. Attorney will be closed if the U.S. Attorney determines further action is unwarranted. If the RJA disagrees, the file should be forwarded with the RJA's recommendation through USARCS to Litigation Division.

§516.35 Preparation of claims for litigation.

(a) *General.* In preparing a referral for litigation the RJA will ensure the file contains at least the following:

- (1) A litigation report (See §516.23 of this part) that demonstrates a factual basis for the claim and a theory of recovery under applicable state law. (See Fed. R. Civ. P. 11)

- (2) Copies of all medical records and bills reflecting the reasonable value of the medical care furnished to the injured party, including DA Form 2631-R (Medical Care-Third Party Liability Notification), and DA Form 3154 (MSA Invoice and Receipt). These documents should be authenticated as necessary on a DA Form 4.

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(3) Copies of all documents necessary to establish the value of lost or damaged property.

(b) *Transmittal letter.* The letter of transmittal referring the claim for litigation should briefly summarize the facts giving rise to the claim and the collection actions previously taken by the Army and the injured party.

ASSERTION OF OTHER CLAIMS

§ 516.36 Referral to Litigation Division.

(a) *General.* The majority of cases filed on behalf of the United States will fall under this subpart E. All other civil cases which cannot be resolved administratively or by direct referral to DOJ will be forwarded through channels to Litigation Division with a litigation report. (See § 516.23 of this part).

(b) *Government contractors.* It may be in the Government's best interest to authorize a Government contractor, whose contract provides for the reimbursement of necessary legal expenses, to employ private counsel to initiate legal proceedings against a third party. To obtain authorization to employ private counsel in such instances the contractor should follow the procedures in § 516.21(c) of this part.

§ 516.37 Proceedings to repossess government real property or quarters or to collect delinquent rent.

(a) *General.* U.S. Attorneys are authorized to accept a Federal agency's request for the following purposes: to initiate an action to recover possession of real property from tenants, trespassers, and others; to enjoin trespasses on Federal property; and, to collect delinquent rentals or damages for use and occupancy of real property for amounts less than \$200,000.

(b) *Procedures.* When eviction or an action to collect delinquent rent is necessary, the SJA or legal adviser will notify General Litigation Branch, Litigation Division, of the situation. If approved by Litigation Division, the SJA or legal adviser may ask the U.S. Attorney to file suit. A copy of the complaint will be sent to Litigation Division. DOJ can take action to evict the occupants for violation of the terms of occupancy and collect delinquent rent or other charges. Once the matter has

been referred to the U.S. Attorney, payments for rent should be sent to the U.S. Attorney. (See AR 210-50, chap 2.)

Subpart F—Environmental Litigation

§ 516.38 Scope.

This subpart contains guidance, policies, and procedures applicable to all environmental and natural resources civil litigation and administrative proceedings involving missions and functions of DA, its major and subordinate commands, all installations presently or previously managed by DA, and all other sites or issues in which DA has a substantial interest. In this chapter, "litigation" includes civil administrative proceedings.

§ 516.39 Duties and procedures.

(a) Water rights. Environmental Law Division will conduct direct liaison with DOJ and will represent DA in State and Federal litigation relating to availability and allocation of surface and ground water and the establishment and protection of water rights for Army military installations and activities. This will include litigation in State general adjudications of water rights under the McCarran Amendment, 43 U.S.C. 666, for Army military installations and activities. Such litigation relating solely to COE civil works projects or activities will be handled by attorneys under the technical supervision of the Chief Counsel, COE. With respect to any general adjudication which could affect the civil works or real property functions of COE, The Judge Advocate General, acting through the Chief, Environmental Law Division, and Chief Counsel, COE, will jointly determine which office should maintain primary direct liaison with DOJ and will scope and execute appropriate coordination with each other and with the General Counsel with respect to that litigation.

(b) Navigable waters. The Chief Counsel, COE, will conduct direct liaison with DOJ and represent DA in civil litigation involving activities in or across navigable waters of the United States or other activities regulated under the Rivers and Harbors Act of 1899, 33 U.S.C. 401 *et seq.*